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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,345	04/29/2004	Scott LaDell Vance	U04.0033.84	3344
24239 7590 08/08/2007 MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			EXAMINER HUANG, WEN WU	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 08/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,345

Applicant(s)

VANCE, SCOTT LADELL

Examiner

Wen W. Huang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-5, 9-14, 22, 25-31, 33, 35-37 and 40-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 9-14, 22, 25-31, 33, 35-37 and 40-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 2, 6-8, 15-21, 23, 24, 32, 34, 38, 39 and 46-48 are canceled.

Claims 1, 3-5, 9-14, 22, 25-31, 33, 35-37 and 40-45 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 22, 31 and 37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1, 22, 31 and 37 recite the limitation, "a change in a direction of force due to gravity". However, nowhere in the specification of the instant application has support for a change in a direction of force due to gravity. The Examiner submits that the specification of the instant application teaches a tilt sensor sensing an angle theta and applying trigonometry math to expressing the sensed angle. Paragraphs [0030]-[0033] of the specification of the instant application disclose the tilt sensor for sensing a change (from a normalized or zero angle of 45 degree) in the angle theta. Even though, the instant application discloses that sine and cosine of the sensed angle theta is

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multiplied with constants K and Fg (force due to gravity) (wherein KF_g equal 1) to produce a unit-less quantity in X and Y orientations. Nevertheless, the Examiner submits that it is well known basic physics that both the direction and the force due to the gravity are constant. Therefore, the specification of the instant application does not enable one of ordinary skill in the art to make and/or use a tilt sensor sensing a change in a direction of force due to gravity.

Claim Objections

Claims 1, 22, 31 and 37 are objected to because of the following informalities:

Claims 1, 22, 31 and 37 recite the limitation, the hands-free push-to-talk sensor or switch "is operable without a button or other actuator having to be bodily contacted and manually operated by a user".

In light of the specification, the Examiner assumes the interpretation that the claimed hands-free push-to-talk sensor or switch is corresponding to the PTT sensor/witch 102 of Fig. 1 and Button 118 is not a part of PTT sensor/switch. However, the Examiner submits that the specification (para. [0019], last sentence) of the instant application explicitly discloses that Button 118 is used to enable the PTT functionality. Thus, the Examiner submits that based on the broadest and most reasonable interpretation, one of ordinary skill artisan could also interpret Button 118 is part of PTT sensor/switch because Button 118 is needed for PTT functionality.

Appropriate correction is required.

Allowable Subject Matter

Regarding claims 1, 22, 31 and 37, the prior art of record is silent to teaching a PTT sensor/switching including a tilt sensor for sensing a change in a direction of force due to gravity.

Response to Arguments

Applicant's arguments with respect to claims 1, 22, 31 and 37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lair et al. (US. PUB NO. 2007/0004464 A1) teach a PTT headset.

Alcivar (US. 3,746,789) teaches a user's breathing noise activating VOX switch circuit.

Basu et al. (US. PUB NO. 2003/0018475 A1) teach a method for audio-visual speech detection and recognition.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen W. Huang whose telephone number is (571) 272-7852. The examiner can normally be reached on 10am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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8/6/07



MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER